

### REMARKS

Claims 1-5, 7-11 are pending in the Application. Claim 9 has been cancelled without prejudice and disclaimer.

Claims 1-5, 7-8 and 10-11 stand rejected.

Applicants amended claim 1 to correct a typographical mistake and not to overcome prior art. Hence, no prosecution history estoppel arises from the amendment to claim 1. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendment made to claim 1 was not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such an amendment. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

Applicants thank the Examiner for discussing the Office Action with Applicants' attorney on June 21, 2006.

#### I. RESTRICTION REQUIREMENT

The Office Action asserts that claims 1-5 and 7-11 are directed towards two distinct inventions: Group I invention involves the claims 1-5, 7-8 and 10-11 and Group II invention involves the claim 9. Applicants elect to prosecute the Group I invention without traverse. Consequently, Applicants cancelled claim 9 without prejudice or disclaimer. Applicants reserve the right to file a divisional patent application to capture the subject matter of originally filed claim 9.

#### II. OBJECTIONS TO THE DRAWINGS

The Office Action asserts that the features claimed in claims 7-8 are not shown in the drawings. Applicants respectfully traverse and direct the Examiner's attention to Figure 1 which clearly shows: a first data processing unit; a second data processing unit; a data communications link, a gateway component 50; as well as an external network that is the Internet 110. Consequently, Applicants respectfully request the Examiner to withdraw the drawing objections.

### III. REJECTIONS UNDER 35 U.S.C. §112

The Office Action has rejected claims 1-5 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Office Action asserts that the phrase "communications apparatus" in claim 1 and that the phrase "the gateway component of the first data processing unit" in claim 3 lack antecedent basis. Applicants amended claim 1 by adding the word "a" in front of the phrase "communications apparatus" to remove the antecedent basis problem. Further, Applicants respectfully assert that the phrase "the gateway component of the first data processing unit" in claim 3 does have sufficient antecedent basis. The phrase "the gateway component of the first data processing unit" in claim 3 refers to the phrase "a gateway component" in claim 1. Consequently, Applicants respectfully assert that claims 1-5 are allowable under 35 U.S.C. §112, second paragraph, and respectfully request the Examiner to withdraw the rejections of claims 1-5 under 35 U.S.C. §112, second paragraph.

### IV. REJECTIONS UNDER 35 U.S.C. §103(a)

#### A. Claims 1-2, 4 and 10-11 are patentable over *Nathanson* in view of *Richardson*.

The Office Action has rejected claims 1-2, 4 and 10-11 under 35 U.S.C. §103(a) as being unpatentable over *Nathanson* (U.S. Patent No. 6,263,268) in view of *Richardson et al.* (U.S. Patent No. 6,427,202) (hereinafter "*Richardson*"). Applicants respectfully traverse.

#### 1. *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest the following claim limitations.

Regarding claim 1, Applicants respectfully assert that *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest "a second data processing unit (B) connected to a communications apparatus providing a wireless connection to an external network, such that operation requests can be received at the second data processing unit (B) from the external network." The Office Action cites element 60 of *Nathanson* as teaching a second data processing unit and cites element

35 of *Nathanson* as teaching a wireless connection. The Office action relies upon column 3, lines 20-22; column 4, lines 4-16; and Figure 1 of *Nathanson* as teaching the above-cited claim limitation. Applicants respectfully traverse.

*Nathanson* instead teaches that element 60 corresponds to a plurality of communication lines. Column 2, lines 36-38. Communication lines are not a second data processing unit as asserted by the Examiner. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 1, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Further, *Nathanson* instead teaches that the data link (element 35) may be any conventional communication link, including, for example, telephony, specialized mobile radio, infrared and satellite. Column 3, lines 20-23. Additionally, *Nathanson* teaches that the infrared data link may be replaced or enhanced by incorporating mobile wireless data links. Column 4, lines 4-6. As illustrated in Figure 1, the data link (element 35) connects a server with a client. There is no language in the cited passages that teaches a second data processing unit connected to a communications apparatus. The Office Action has not specifically identified an element in *Nathanson* as allegedly teaching the communications apparatus. Neither is there any language in the cited passages that teaches a second data processing unit connected to a communications apparatus providing a wireless connection to an external network, such that operation requests can be received at the second data processing unit from the external network. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 1, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Additionally, regarding claim 1, Applicants respectfully assert that *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest "a data communications link between the first and second data processing units." The Office Action relies upon column 2, lines 19-21 and Figure 1 of *Nathanson* as teaching the above-cited claim limitation. Applicants respectfully traverse and assert that

*Nathanson* instead teaches that both diagnostic means and the memory are in communication with a server which ultimately controls the operation of the system. Column 2, lines 19-21. There is no language in the cited passage and there is no depiction in Figure 1 that teaches a data communications link between the first and second data processing units. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 1, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, regarding claim 1, Applicants further assert that *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest "a gateway component for controlling communications across the data communications link, the gateway component limiting passing of the operation requests from the second data processing unit to the vehicle's device control units to only a predefined set of permitted operations." The Office Action relies upon column 5, lines 49-59 of *Richardson* as teaching the above-cited claim limitation. Applicants respectfully traverse and assert that *Richardson* instead teaches that an enabler is arranged in between one of the lines of decoded instructions from the decoder that are input into the CPU. Column 5, lines 49-52. There is no language in the cited passage that teaches a gateway component for controlling communications across the data communications link. Neither is there any language in the cited passage that teaches a gateway component limiting passing of the operation requests from the second data processing unit to the vehicle's device control units. Neither is there any language in the cited passage that teaches a gateway component limiting passing of the operation requests from the second data processing unit to the vehicle's device control units to only a predefined set of permitted operations. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 1, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Regarding claim 10, Applicants respectfully assert that *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest "storing a list of permitted operations which can be requested form the second data processing unit."

The Office Action has not specifically addressed this limitation. In order to establish a *prima facie* case of obviousness, the Office Action must cite a prior art reference or combination of prior art references that teaches or suggests all of the claim limitations. M.P.E.P. §2143. Since the Office Action has not addressed this claim limitation, the Office Action has not established a *prima facie* case of obviousness in rejecting claim 10. M.P.E.P. §2143.

Furthermore, regarding claim 10, Applicants respectfully assert that *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest "comparing, by a secure gateway component which controls communications across the communications link, requests to perform operations relating to secure resources on the first data processing unit with the list of permitted operations." The Office Action has not specifically addressed this limitation. In order to establish a *prima facie* case of obviousness, the Office Action must cite a prior art reference or combination of prior art references that teaches or suggests all of the claim limitations. M.P.E.P. §2143. Since the Office Action has not addressed this claim limitation, the Office Action has not established a *prima facie* case of obviousness in rejecting claim 10. M.P.E.P. §2143.

Additionally, regarding claim 10, Applicants respectfully assert that *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest "only executing the permitted operations." The Office Action has not specifically addressed this limitation. In order to establish a *prima facie* case of obviousness, the Office Action must cite a prior art reference or combination of prior art references that teaches or suggests all of the claim limitations. M.P.E.P. §2143. Since the Office Action has not addressed this claim limitation, the Office Action has not established a *prima facie* case of obviousness in rejecting claim 10. M.P.E.P. §2143.

Claims 2 and 4 each recite combinations of features of claim 1, and thus are patentable over *Nathanson* in view of *Richardson* for at least the reasons that claim 1 is patentable over *Nathanson* in view of *Richardson*.

Regarding claim 2, Applicants respectfully assert that *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest "wherein the first

data processing unit (A) is adapted to store in an unmodifiable form a list of said predefined set of permitted operations and includes a gateway component for comparing all operation requests received from the second data processing unit (B) with the list of permitted operations, and then to pass the permitted operation requests to respective ones of said device control units and to discard non-permitted operation requests." As understood by Applicants, the Office Action admits that the combination of *Nathanson* and *Richardson* do not teach the above-cited claim limitations. As further understood by Applicants, the Office Action asserts that these limitations are well-known and that it would have been obvious to modify the combination of *Nathanson* and *Richardson* to include the above-cited claim limitations because of "the benefit of saving unnecessary use of resources." Applicants respectfully traverse.

Applicants traverse the assertion that the above-cited claim limitations are well known. Applicants respectfully request the Office Action to provide a reference that teaches all of the above-cited claim limitations pursuant to M.P.E.P. §2144.03.

Applicants further assert that the Office Action's motivation for modifying *Nathanson* and *Richardson* to include the above-cited claim limitations is the Examiner's own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Office Action's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claim 2. *Id.*

Regarding claim 4, Applicants respectfully assert that *Nathanson* and *Richardson*, taken singly or in combination, do not teach or suggest "wherein the second data processing unit (B) is adapted to store one or more access control lists defining which operation requests are permitted for particular requestors, and wherein the second data processing unit (B) includes a gateway component for comparing all operation requests on the first data processing unit (A) with the access control lists and only passing to the first data processing unit (A) those operation requests which are permitted for the respective requestors and discarding non-permitted operation requests." As understood by Applicants, the Office Action admits that the

combination of *Nathanson* and *Richardson* do not teach the above-cited claim limitations. As further understood by Applicants, the Office Action asserts that these limitations are well-known and that it would have been obvious to modify the combination of *Nathanson* and *Richardson* to include the above-cited claim limitations because of "the benefit of selective access control to the secure resources." Applicants respectfully traverse.

Applicants traverse the assertion that the above-cited claim limitations are well known. In particular, Applicants respectfully traverse the assertion that any language in the above-cited claim limitations, including having the second data processing unit store one or more access control lists defining which operation requests are permitted for particular requestors, is well known in the art. Applicants respectfully request the Office Action to provide a reference that teaches all of the above-cited claim limitations pursuant to M.P.E.P. §2144.03.

Applicants further assert that the Office Action's motivation for modifying *Nathanson* and *Richardson* to include the above-cited claim limitations is the Examiner's own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Office Action's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claim 4. *Id.*

2. Motivation to modify *Nathanson* with *Richardson* to incorporate the missing claim limitations of claims 1 and 10 is insufficient to establish a *prima facie* case of obviousness in rejecting claims 1 and 10.

Most if not all inventions arise from a combination of old elements. *See In re Rouffet*, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998). Obviousness is determined from the vantage point of a hypothetical person having ordinary skill in the art to which the patent pertains. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998). Therefore, an Examiner may often find every element of a claimed invention in the prior art. *Id.* However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. *See Id.* In order to establish a *prima facie* case of obviousness, it is necessary for the Office Action to present

evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge that one having ordinary skill in the art would have led to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300, 1301 (B. Pat. App. & Int. 1993); *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.*, 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985). The legal conclusion of obviousness must be supported by facts. See *Graham v. John Deere & Co.*, 383 U.S. 1 (1966). Where the legal conclusion is not supported by facts, it cannot stand. *Id.*

The Office Action admits that *Nathanson* does not teach "a gateway component for controlling communications across the data communications link, the gateway component limiting passing of the operation requests from the second data processing unit to the vehicle's device control units to only a predefined set of permitted operations" as recited in claim 1 and similarly in claim 10. The Examiner asserts that *Richardson* teaches the above-cited claim limitations. The asserted motivation for modifying *Nathanson* with *Richardson* to include the above-cited claim limitations is "given the benefit of increased security." This motivation is insufficient to support a *prima facie* case of obviousness in rejecting claims 1-5 and 10-11 as discussed below.

The Office Action has not provided an objective source for the motivation for modifying *Nathanson* to include the above-cited claim limitation. Instead, the Office Action is relying upon the Examiner's own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Office Action's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 1-5 and 10-11. *Id.*

Further, the asserted motivation (benefit of increased security) appears to have been gleaned only from Applicants' disclosure, such as for example on page 10, lines 4-19 of Applicants' Specification. Any judgment on obviousness must not include knowledge gleaned only from Applicants' disclosure. *In re McLaughlin*, 170



U.S.P.Q. 209, 212 (C.C.P.A. 1971). Consequently, the asserted motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 1-5 and 10-11. M.P.E.P. §2145.

B     Claims 3 and 5 are patentable over *Nathanson* in view of *Richardson* and in further view of *Serughett*.

The Office Action has rejected claims 3 and 5 under 35 U.S.C. §103(a) as being unpatentable over *Nathanson* in view of *Richardson* and in further view of Marc Serughett, "OSEK: a super-small kernel for deeply embedded application?", 1999 (hereinafter "*Serughett*"). Applicants respectfully traverse.

1.     *Nathanson, Richardson and Serughett, taken singly or in combination, do not teach or suggest the following claim limitations.*

Regarding claim 3, Applicants respectfully assert that *Nathanson, Richardson and Serughett*, taken singly or in combination, do not teach or suggest "wherein the first data processing unit (A) includes a static operating system environment and the gateway component of the first data processing unit (A) runs in the static operating system environment." The Office Action relies upon *Serughett* as teaching the above-cited claim limitation. However, the Office Action has not cited to any particular passage in *Serughett* as allegedly teaching the above-cited claim limitation. Upon review of *Serughett*, Applicants did not locate any language that teaches the above-cited claim limitation. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 3, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Regarding claim 5, Applicants respectfully assert that *Nathanson, Richardson and Serughett*, taken singly or in combination, do not teach or suggest "the first data processing unit (A) includes a Real Time Operating System; and the second data processing unit (B) includes means for performing authentication of requestors and a gateway component for comparing all operation requests sent to the first data processing unit (A) with access control lists and for passing to the first data processing unit (A) only those operation requests which are permitted for the

respective requestors and discarding non-permitted operation requests." The Office Action asserts that these limitations (except the aspect of a real-time operating system) are substantially equivalent to the limitations of claims 2-3 and therefore are similarly rejected. Applicants respectfully traverse. These are different limitations than the limitations of claims 2 and 3. Further, there is no language in the combination of *Nathanson*, *Richardson* and *Serughett* that teaches any of the above-cited claim limitations. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 5, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

2. Motivation to modify *Nathanson* with *Serughett* to incorporate the missing claim limitation of claim 3 is insufficient to establish a *prima facie* case of obviousness in rejecting claim 3.

As stated above, in order to establish a *prima facie* case of obviousness, it is necessary for the Office Action to present evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge that one having ordinary skill in the art would have led to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300, 1301 (B. Pat. App. & Int. 1993); *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.*, 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985).

The Office Action admits that *Nathanson* does not teach "wherein the first data processing unit (A) includes a static operating system environment and the gateway component of the first data processing unit (A) runs in the static operating system environment" as recited in claim 3. The Examiner asserts that *Serughett* teaches the above-cited claim limitations. The asserted motivation for modifying *Nathanson* with *Serughett* to include the above-cited claim limitations is "given the various benefit[s] disclosed by *Serughett*: reliability, minimal resource usage, highly efficient scheduling, etc." This motivation is insufficient to support a *prima facie* case of obviousness in rejecting claim 3 as discussed below.

The Office Action has not specifically cited to any passage in *Serughett* to support the Office Action's motivation. Applicants could not identify any language in *Serughett* to support the Office Action's motivation. As a result, the Office Action is in essence relying upon the Examiner's own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Office Action's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claim 3. *Id.*

Further, the Office Action's motivation ("given the various benefit[s] disclosed by *Serughett*: reliability, minimal resource usage, highly efficient scheduling, etc.") does not provide reasons, as discussed further below, that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would modify *Nathanson* to include the missing claim limitation of claim 3. Accordingly, the Office Action has not presented a *prima facie* case of obviousness for rejecting claim 3. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998).

*Nathanson* addresses the problem of obtaining diagnostic information from the OBD module only in the form of responses to requests submitted from the test equipment. Column 1, lines 45-48. The Office Action has not provided any reasons as to why one skilled in the art would modify *Nathanson*, which teaches an on-board automotive diagnostic system that obtains information from the OBD module not just in the form of responses to requests submitted from the test equipment, to have a data processing unit that includes a static operating system environment and a gateway component of the first data processing unit running in the static operating system environment. The Office Action's motivation ("given the various benefit[s] disclosed by *Serughett*: reliability, minimal resource usage, highly efficient scheduling, etc.") does not provide such reasoning. Hence, the Office Action's motivation does not provide reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would modify *Nathanson* to include the missing claim limitation of claim 3. Accordingly, the Office Action

has not presented a *prima facie* case of obviousness for rejecting claim 3. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998).

3. The Office Action has not presented a motivation for modifying *Nathanson* and *Richardson* with *Serughett* to include the claim limitation of claim 5.

The Office Action admits that *Nathanson* and *Richardson*, taken together, do not teach the aspect of a real time operating system in claim 5. The Office Action asserts that *Serughett* teaches such a real time operating system. Applicants respectfully assert that the Office Action has not presented a motivation for modifying *Nathanson* to include the aspect of a real time operation system. In order to establish a *prima facie* case of obviousness, the Office Action must provide a suggestion or motivation to modify the reference or to combine reference teachings. M.P.E.P. §2142. Since the Office Action has not provided any motivation for modifying *Nathanson* with *Serughett* to incorporate the missing claim limitation of claim 5, the Office Action has not established a *prima facie* case of obviousness in rejecting claim 5. M.P.E.P. §2142.

C Claims 7 and 8 are patentable over *Bassett* in view of *Richardson*.

The Office Action has rejected claims 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over *Bassett* (U.S. Patent No. 5,706,191) in view of *Richardson*. Applicants respectfully traverse.

1. *Bassett* and *Richardson*, taken singly or in combination, do not teach or suggest the following claim limitations.

Regarding claim 7, Applicants respectfully assert that *Bassett* and *Richardson*, taken singly or in combination, do not teach or suggest "a first data processing unit connected to one or more security-critical resources." The Office Action cites elements 70-78 of *Bassett* as teaching a first data processing unit. The Office Action further cites elements 50 and 71 as teaching security-critical resources. Applicants respectfully traverse. *Bassett* instead teaches that elements 70 are appliance interface modules. Column 5, lines 60-61. The Office Action must provide a basis in fact and/or technical reasoning to support the conclusion that an appliance

interface module, as taught in *Bassett*, inherently teaches a data processing system. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that an appliance interface module, as taught in *Bassett*, inherently teaches a data processing system, and that it would be so recognized by persons of ordinary skill. *See In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Office Action has not provided any such objective evidence, the Office Action has not presented a *prima facie* case of obviousness for rejecting claim 7. M.P.E.P. §2143.

Furthermore, regarding claim 7, Applicants respectfully assert that *Bassett* and *Richardson*, taken singly or in combination, do not teach or suggest "a second data processing unit connected to an external communications network such that operation requests can be received from the external network." The Office Action cites element 15 of *Bassett* as teaching a second data processing unit. The Office Action further relies upon column 12, lines 41-57 and Figure 6 as teaching the above-cited claim limitation. Applicants respectfully traverse.

*Bassett* instead teaches that element 15 corresponds to an automation system controller connected to the residence electrical wiring system. Column 5, lines 25-27. The Office Action must provide a basis in fact and/or technical reasoning to support the conclusion that an automation system controller, as taught in *Bassett*, inherently teaches a data processing system. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that an automation system controller, as taught in *Bassett*, inherently teaches a data processing system, and that it would be so recognized by persons of ordinary skill. *See In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Office Action has not provided any such objective evidence, the Office Action has not presented a *prima facie* case of obviousness for rejecting claim 7. M.P.E.P. §2143.

Further, *Bassett* instead teaches that the gas meter, water heater and furnace are connected via their respective appliance interface modules. Column 12, lines 44-46. There is no language in the cited passage that teaches a second data processing

unit. Neither is there any language in the cited passage that teaches a second data processing unit connected to an external communications network. Neither is there any language in the cited passage that teaches a second data processing unit connected to an external communications network such that operation requests can be received from the external network. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 7, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Additionally, regarding claim 7, Applicants respectfully assert that *Bassett* and *Richardson*, taken singly or in combination, do not teach or suggest "a gateway component for controlling communications across the link." The Office Action asserts that this limitation is inherently taught by *Bassett*. Applicants respectfully traverse. The Office Action must provide a basis in fact and/or technical reasoning to support the conclusion that *Bassett* inherently teaches a gateway component for controlling communications across the link. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that *Bassett* inherently teaches a gateway component for controlling communications across the link, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Office Action has not provided any such objective evidence, the Office Action has not presented a *prima facie* case of obviousness for rejecting claim 7. M.P.E.P. §2143

Furthermore, regarding claim 7, Applicants respectfully assert that *Bassett* and *Richardson*, taken singly or in combination, do not teach or suggest "the gateway component limiting the operations which can be performed at the first data processing unit in response to requests from the second processing unit to only a predefined set of permitted operation." The Office Action relies upon column 5, lines 49-59 of *Richardson* as teaching the above-cited claim limitation. Applicants respectfully traverse. As stated above, *Richardson* instead teaches that an enabler is arranged in between on of the lines of decoded instructions from the decoder that are input into the CPU. Column 5, lines 49-52. There is no language in the cited passage that

teaches a gateway component limiting the operations which can be performed at the first data processing unit. Neither is there any language in the cited passage that teaches a gateway component limiting the operations which can be performed at the first data processing unit in response to requests from the second processing unit. Neither is there any language in the cited passage that teaches a gateway component limiting the operations which can be performed at the first data processing unit in response to requests from the second processing unit to only a predefined set of permitted operation. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 7, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Additionally, regarding claim 7, Applicants respectfully assert that *Bassett* and *Richardson*, taken singly or in combination, do not teach or suggest "wherein the first and second data processing units and the link between them are implemented within a network-connected home environment." The Office Action relies upon Figure 1 of *Bassett* as teaching the above-cited claim limitation. Applicants respectfully traverse. There is no language in the description of Figure 1 of *Bassett* that teaches first and second data processing units. Neither is there any language in the description of Figure 1 of *Bassett* that teaches first and second data processing units and the link between them are implemented within a network-connected home environment. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 7, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, regarding claim 7, Applicants respectfully assert that *Bassett* and *Richardson*, taken singly or in combination, do not teach or suggest "the security-critical resources include security-critical devices within the home which are managed by application programs running on the first data processing unit." The Office Action relies upon column 9, lines 29-34 and 51-67; and Figure 15 of *Bassett* as teaching the above-cited claim limitation. Applicants respectfully traverse and assert that *Bassett* instead teaches that an appliance interface module would require an interface, a microprocessor and a device-specific interface. Column 9, lines 29-34.

There is no language in the cited passages that teaches security-critical resources including security-critical devices within a home. Neither is there any language in the cited passages that teaches security-critical resources including security-critical devices within a home which are managed by application programs running on the first data processing unit. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 7, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Regarding claim 8, Applicants respectfully assert that *Bassett* and *Richardson*, taken singly or in combination, do not teach or suggest "wherein the external network is the Internet." The Office Action asserts that the above-cited claim limitation is well known in the art. While the Internet itself is well known, Applicants respectfully traverse the assertion that it is well known in the art to have a second data processing unit connected to an external communications network such that operation requests can be received from the external network, where the external network is the Internet. Applicants respectfully request the Office Action to provide a reference that teaches the above-cited claim limitation pursuant to M.P.E.P. §2144.03.

Further, the Office Action states:

One would have been motivated to use them especially in light of the benefits of [the] Internet as evidence by Internet commercial success. Office Action (4/10/2006), page 11.

The Office Action has not provided an objective source for the motivation for modifying *Bassett* and *Richardson* to include the above-cited claim limitation. Instead, the Office Action is relying upon the Examiner's own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Office Action's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claim 8. *Id.*

2. Motivation to modify *Bassett* with *Richardson* to incorporate the missing claim limitations of claims 7 is insufficient to establish a *prima facie* case of obviousness in rejecting claim 7.



As stated above, in order to establish a *prima facie* case of obviousness, it is necessary for the Office Action to present evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge that one having ordinary skill in the art would have led to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300, 1301 (B. Pat. App. & Int. 1993); *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.*, 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985).

The Office Action admits that *Bassett* does not teach "the gateway component limiting the operations which can be performed at the first data processing unit in response to requests from the second data processing unit to only a predefined set of permitted operations" as recited in claim 7. The Office Action asserts that *Richardson* teaches the above-cited claim limitation. The asserted motivation for modifying *Bassett* with *Richardson* to include the above-cited claim limitation is "given the benefit of increased security." This motivation is insufficient to support a *prima facie* case of obviousness in rejecting claims 7-8 as discussed below.

The Office Action has not provided an objective source for the motivation for modifying *Bassett* to include the above-cited claim limitation. Instead, the Office Action is relying upon the Examiner's own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Office Action's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 7-8. *Id.*

Further, the Examiner's motivation (benefit of increased security) appears to have been gleaned only from Applicants' disclosure, such as for example on page 10, lines 4-19 of Applicants' Specification. Any judgment on obviousness must not include knowledge gleaned only from Applicants' disclosure. *In re McLaughlin*, 170 U.S.P.Q. 209, 212 (C.C.P.A. 1971). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 7-8. M.P.E.P. §2145.

D     Claims 7 and 8 are patentable over *Bassett* in view of *Pfleeger*.

The Office Action has rejected claims 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over *Bassett* in view of Charles P. Pfleeger, "Security in Computing," 2<sup>nd</sup> edition, 1996 (hereinafter "*Pfleeger*"). Applicants respectfully traverse.

1.     *Bassett* and *Pfleeger*, taken singly or in combination, do not teach or suggest the following claim limitations.

Regarding claim 7, Applicants respectfully assert that *Bassett* and *Pfleeger*, taken singly or in combination, do not teach or suggest "a first data processing unit connected to one or more security-critical resources." The Office Action cites elements 70-78 of *Bassett* as teaching a first data processing unit. The Office Action further cites elements 50 and 71 as teaching security-critical resources. Applicants respectfully traverse. *Bassett* instead teaches that elements 70 are appliance interface modules. Column 5, lines 60-61. The Office Action must provide a basis in fact and/or technical reasoning to support the conclusion that an appliance interface module, as taught in *Bassett*, inherently teaches a data processing system. See *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that an appliance interface module, as taught in *Bassett*, inherently teaches a data processing system, and that it would be so recognized by persons of ordinary skill. See *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Office Action has not provided any such objective evidence, the Office Action has not presented a *prima facie* case of obviousness for rejecting claim 7. M.P.E.P. §2143.

Furthermore, regarding claim 7, Applicants respectfully assert that *Bassett* and *Pfleeger*, taken singly or in combination, do not teach or suggest "a second data processing unit connected to an external communications network such that operation requests can be received from the external network." The Office Action cites element 15 of *Bassett* as teaching a second data processing unit. The Office Action further relies upon column 12, lines 41-57 and Figure 6 as teaching the above-cited claim limitation. Applicants respectfully traverse.

*Bassett* instead teaches that element 15 corresponds to an automation system controller connected to the residence electrical wiring system. Column 5, lines 25-27. The Office Action must provide a basis in fact and/or technical reasoning to support the conclusion that an automation system controller, as taught in *Bassett*, inherently teaches a data processing system. See *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that an automation system controller, as taught in *Bassett*, inherently teaches a data processing system, and that it would be so recognized by persons of ordinary skill. See *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Office Action has not provided any such objective evidence, the Office Action has not presented a *prima facie* case of obviousness for rejecting claim 7. M.P.E.P. §2143.

Further, *Bassett* instead teaches that the gas meter, water heater and furnace are connected via their respective appliance interface modules. Column 12, lines 44-46. There is no language in the cited passage that teaches a second data processing unit. Neither is there any language in the cited passage that teaches a second data processing unit connected to an external communications network. Neither is there any language in the cited passage that teaches a second data processing unit connected to an external communications network such that operation requests can be received from the external network. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 7, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Additionally, regarding claim 7, Applicants respectfully assert that *Bassett* and *Pfleeger*, taken singly or in combination, do not teach or suggest "a gateway component for controlling communications across the link." The Office Action asserts that this limitation is inherently taught by *Bassett*. Applicants respectfully traverse. The Office Action must provide a basis in fact and/or technical reasoning to support the conclusion that *Bassett* inherently teaches a gateway component for controlling communications across the link. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic

evidence that must make clear that *Bassett* inherently teaches a gateway component for controlling communications across the link, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Office Action has not provided any such objective evidence, the Office Action has not presented a *prima facie* case of obviousness for rejecting claim 7. M.P.E.P. §2143

Furthermore, regarding claim 7, Applicants respectfully assert that *Bassett* and *Pfleeger*, taken singly or in combination, do not teach or suggest "the gateway component limiting the operations which can be performed at the first data processing unit in response to requests from the second processing unit to only a predefined set of permitted operation." The Office Action relies upon pages 427-434 of *Pfleeger* as teaching the above-cited claim limitation. Applicants respectfully traverse. *Pfleeger* instead teaches that a firewall is a process that filters all traffic between a protected or "inside" network and a less trustworthy or "outside" network. Page 428. There is no language in the cited passages that teaches a gateway component limiting the operations which can be performed at the first data processing unit in response to requests from the second processing unit. Neither is there any language in the cited passages that teaches a gateway component limiting the operations which can be performed at the first data processing unit in response to requests from the second processing unit to only a predefined set of permitted operation. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 7, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Additionally, regarding claim 7, Applicants respectfully assert that *Bassett* and *Pfleeger*, taken singly or in combination, do not teach or suggest "wherein the first and second data processing units and the link between them are implemented within a network-connected home environment." The Office Action relies upon Figure 1 of *Bassett* as teaching the above-cited claim limitation. Applicants respectfully traverse. There is no language in the description of Figure 1 of *Bassett* that teaches first and second data processing units. Neither is there any language in the description of Figure 1 of *Bassett* that teaches first and second data processing

units and the link between them are implemented within a network-connected home environment. Therefore, the Office Action has not presented a *prima facie* case of obviousness in rejecting claim 7, since it is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

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Regarding claim 8, Applicants respectfully assert that *Bassett* and *Pfleeger*, taken singly or in combination, do not teach or suggest "wherein the external network is the Internet." The Office Action asserts that the above-cited claim limitation is well known in the art. While the Internet itself is well known, Applicants respectfully traverse the assertion that it is well known in the art to have a second data processing unit connected to an external communications network such that operation requests can be received from the external network, where the external network is the Internet. Applicants respectfully request the Office Action to provide a reference that teaches the above-cited claim limitation pursuant to M.P.E.P. §2144.03.

Further, the Office Action states:

One would have been motivated to use them especially in light of the benefits of [the] Internet as evidence by Internet commercial success. Office Action (4/10/2006), page 13.

The Office Action has not provided an objective source for the motivation for modifying *Bassett* and *Pfleeger* to include the above-cited claim limitation. Instead, the Office Action is relying upon the Examiner's own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Office Action's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claim 8. *Id.*

2. Motivation to modify *Bassett* with *Pfleeger* to incorporate the missing claim limitations of claims 7 is insufficient to establish a *prima facie* case of obviousness in rejecting claim 7.

As stated above, in order to establish a *prima facie* case of obviousness, it is necessary for the Office Action to present evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge that one having ordinary skill in the art would have led to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300, 1301 (B. Pat. App. & Int. 1993); *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.*, 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985).

The Office Action admits that *Bassett* does not teach "the gateway component limiting the operations which can be performed at the first data processing unit in response to requests from the second data processing unit to only a predefined set of permitted operations" as recited in claim 7. The Office Action asserts that *Pfleeger* teaches the above-cited claim limitation. The asserted motivation for modifying *Bassett* with *Pfleeger* to include the above-cited claim limitation is "given the benefit of increased security." This motivation is insufficient to support a *prima facie* case of obviousness in rejecting claims 7-8 as discussed below.

The Office Action has not provided an objective source for the motivation for modifying *Bassett* to include the above-cited claim limitation. Instead, the Office

Action is relying upon the Examiner's own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Office Action's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 7-8. *Id.*

Further, the Examiner's motivation (benefit of increased security) appears to have been gleaned only from Applicants' disclosure, such as for example on page 10, lines 4-19 of Applicants' Specification. Any judgment on obviousness must not include knowledge gleaned only from Applicants' disclosure. *In re McLaughlin*, 170 U.S.P.Q. 209, 212 (C.C.P.A. 1971). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 7-8. M.P.E.P. §2145.

V. CONCLUSION

As a result of the foregoing, it is asserted by Applicants that claims 1-5, 7-8 and 10-11 in the Application are in condition for allowance, and Applicants respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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